

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies,
Procedures and Incentives for Distributed
Generation and Distributed Energy Resources.

Rulemaking 04-03-017
(Filed March 16, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
NOTICES OF INTENT TO CLAIM COMPENSATION**

1. Summary

This ruling responds to the notices of intent to claim compensation (NOIs) filed in this docket by Vote Solar Initiative (Vote Solar) pursuant to Public Utilities Code, Section 1804.

2. Statutory Requirements Relevant to Vote Solar's NOI

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference. Vote Solar did not file its NOI within 30 days of the Commission prehearing conference, it explains that it was unaware of the proceeding until shortly before it filed its NOI, and was therefore not a party before that time. This is a reasonable justification for accepting the NOI late.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of

participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

3. Vote Solar's NOI

Vote Solar meets the third definition of customer, as set forth in § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Vote Solar states it expects to be an active party in this proceeding addressing the Self-Generation Incentive Program, renewable energy credits, distributed generation tariffs and net metering.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Vote Solar estimated a total projected budget of \$7,755 for this case, based on proposed hourly rates for its attorneys.

Vote Solar states it will defer its request for a finding of significant financial hardship.

Like all intervenors, Vote Solar must demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or California Public Utilities Commission (Commission) in resolving this proceeding.

IT IS RULED that:

1. Vote Solar is a customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a).
2. Volar Solar is eligible to seek an award of compensation in this proceeding.
3. The Commission will consider at a later date whether Vote Solar would experience significant financial hardship if it were to participate in this proceeding without intervenor compensation.

Dated August 2, 2005, at San Francisco, California.

/s/ KIM MALCOM
by LYNN T. CREW

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated August 2, 2005, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.